

UNITED STATES DISTRICT COURT
for
EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

U.S.A. vs. James Franklin Owens

Docket No. 7:98-CR-20-1F

Petition for Action on Supervised Release

COMES NOW Eddie J. Smith, probation officer of the court, presenting a petition for modification of the Judgment and Commitment Order of James Franklin Owens, who, upon an earlier plea of guilty to 18 U.S.C. §§ 2113(a)&(d) and 2, Armed Bank Robbery and Aiding and Abetting, was sentenced by the Honorable James C. Fox, Senior U.S. District Judge, on April 19, 1999, to the custody of the Bureau of Prisons for a term of 102 months. It was further ordered that upon release from imprisonment the defendant be placed on supervised release for 60 months under the standard conditions adopted by the court and the following additional conditions:

1. The defendant shall consent to a warrantless search by a United States Probation Officer or, at the request of the probation officer, any other law enforcement officer, of the defendant's person and premises, including any vehicle, to determine compliance with the conditions of this judgment.
2. The defendant shall participate as directed in a program approved by the probation office for the treatment of narcotic addiction, drug dependency, or alcohol dependency which will include urinalysis testing or other drug detection measures and may require residence or participation in a residential treatment facility.

On February 22, 2010, as a result of the defendant being a registered sex offender for prior state offenses, the court modified the conditions of supervised release to include the following:

1. The defendant shall participate in mental health/sex offender treatment, evaluation testing, clinical polygraphs and other assessment instruments as directed by the probation officer. While under supervision in the Eastern District of North Carolina, the defendant shall further abide by the rules and regulations of the NCE Sex Offender Program.
2. The defendant shall submit to a search of his person, house, residence, vehicle, papers, computer, other electronic communication or data storage devices or media, and effects at any time, with or without a warrant. The search may be conducted by any law enforcement officer or probation officer with reasonable suspicion concerning a violation of a condition of supervision or unlawful conduct by the person, and by any probation officer in the lawful discharge of the officer's supervision functions.

On September 17, 2010, a violation report was submitted to the court reporting that the defendant tested positive for marijuana on September 15, 2010. As a result, we referred the defendant to substance abuse counseling and the court agreed to continue supervision.

On September 22, 2010, a violation report was submitted to the court reporting the defendant had been charged in Duplin County with the offense of Driving While License Revoked.

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Additionally, we reported that Owens had contact with a convicted felon without permission of the probation officer. The court agreed to continue supervision.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS: On October 15, 2010, the defendant submitted a urine sample that tested positive for cocaine. Owens signed an admission acknowledging his use of cocaine on October 14, 2010. Since being referred to substance abuse counseling on September 21, 2010, Owens has failed to attend two scheduled intake appointments. On this date, another appointment was scheduled for October 27, 2010. The defendant has been instructed that continued drug use and failure to attend substance abuse counseling will not be tolerated. In an effort to gain compliance with the conditions of supervised release, we are recommending the conditions be modified to include 90 days of home detention with electronic monitoring. The defendant signed a Waiver of Hearing agreeing to the proposed modification of supervision.

PRAYING THAT THE COURT WILL ORDER that supervised release be modified as follows:

The defendant shall abide by all conditions and terms of the home detention program for a period not to exceed 90 consecutive days. The defendant shall be restricted to his residence at all times except for pre-approved and scheduled absences for employment, education, religious activities, treatment, attorney visits, court appearances, court obligations or other activities as approved by the probation officer. The defendant shall wear an electronic monitoring device and follow electronic monitoring procedures specified by the probation officer.

Except as herein modified, the judgment shall remain in full force and effect.

Reviewed and approved,

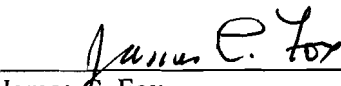
/s/ Robert L. Thornton
Robert L. Thornton
Supervising U.S. Probation Officer

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Eddie J. Smith
Eddie J. Smith
U.S. Probation Officer
310 Dick Street
Fayetteville, NC 28301-5730
Phone: (910) 483-8613
Executed On: October 20, 2010

ORDER OF COURT

Considered and ordered this 21st day of October, 2010, and ordered filed and made a part of the records in the above case.


James C. Fox
Senior U.S. District Judge